IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 20867 of 2004

Between:

A.P. State Agro Industries Development Corporation Ltd., 6-2-45/7,

Advocates Colony, A.C.Guards,
Hyderabad, rep. by Vice Chairman and M.D.,

... PETITIONER

AND

1 Regional Provident Fund Commissioner (C&R), A.P. Barkatpura, Hyderabad.
2 Asst. Provident Fund Commissioner (C&R), ENF Circle-1, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an order, directions particularly in the nature of writ of Mandamus declaring the action of the Respondents in issuing impugned order vide proceeding No.AP.3300/ENF-I-8/Zone-27/2004/742 dt. 21.9.2004 and consequential order dt. 12-10-2004 vide proceedings No. AP/3300/PD cell/2004/8314 issued by the 2nd and 1st respondent respectively are illegal arbitrary unsustainable under law and contrary to the principles of natural justice, violation of

article 14, 16, 18, 19 & 300A of Constitution and quash the same and consequently directing the Respondents to refund the excess amounts paid to a tune of Rs. 38,44,424-58 Ps.

Counsel for the Petitioner: MRS.P.BALA RANI

Counsel for the Respondents: MR.R.N.REDDY

The Court, at the admission stage, made the following:

ORDER:

By the impugned order dated 12-10-2004, petitioner was informed that since there is no stay prohibiting the authority to proceed further nor any direction from the appellate authority to set aside and reverse the order, the respondents are reserved with the right to act as per Rules and as per the directions of the appellate authority for due realization of the amount. Questioning the same, the present writ petition has been filed.

2. It is not disputed that the respondent-organization determined the liability payable by the petitioner against which petitioner filed appeals before the Appellate Tribunal in A.T.A.No.460 of 2004 pursuant to the directions issued in W.P.No.11474 of 2004 dated 07-07-2004 and the said appeals are pending. If that were the case, in the absence of any stay granted by the appellate authority, respondents are justified in issuing the notice intimating that they are reserved with the right to proceed against the petitioner. If the petitioner seeks stay of further proceedings, necessarily it has to deposit 50% of the amount pending the appeal. Only in such an event, respondents cannot proceed further in the matter. If the petitioner does not choose to deposit the said amount, it is always open for the respondents to proceed in accordance with law.

The writ petition is accordingly disposed of.

A. **GOPAL REDDY, J**

November 17, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 Regional Provident Fund Commissioner (C&R), A.P. Barkatpura, Hyderabad.
2 Asst. Provident Fund Commissioner (C&R), ENF Circle-1, Hyderabad.

3 Two C.D. Copies.